SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1933

No. 659

THE UNITED STATES OF AMERICA, APPELLANT

vs.

CLAUDE CHAMBERS AND BYRUM GIBSON

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

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1 In Supreme Court of the United States

October Term, 1933

No. 659

THE UNITED STATES OF AMERICA, APPELLANT

v.

BYRUM GIBSON AND CLAUDE CHAMBERS

Case on Appeal

Question involved

The constitutional question involved in this appeal is this:

Does the repeal of the eighteenth amendment by the adoption of the twenty-first amendment on December 5, 1933, render inoperative the National Prohibition Law and deprive United States district courts of the power to try and, upon conviction, sentence defendants for violations of the law occurring on or before December 5, 1933?

The foregoing question arose in this case wherein the defendants were indicted, as will appear on record, at the June term, 1933, of the United States District Court for the Middle District of North Carolina, for a violation of the National Prohibition Act. One of the defendants pleaded guilty to the indictment at that term, but prayer for judgment was continued until the December term, 1933, in order that the other defendant might be tried at the same time before judgment was pronounced. The case was called for trial on December 6, 1933, whereupon the defendant Chambers filed a plea in abatement to dismiss the action for the reasons set forth in the plea. The defendant Gibson demurred to the jurisdiction of the court and moved to dismiss the indictment as it charged no offense
2 against him under the present law, the same having become inoperative by virtue of the repeal of the eighteenth amendment which was accomplished on December 5, 1933. The court sustained the motions and discharged the defendant on the ground that it had no jurisdiction, having been deprived thereof by the repeal of the eighteenth amendment through the operation of the twenty-first amendment. To which ruling the United States attorney then and there excepted and the exception was allowed.

The following constitutes the written record of the proceedings:

3 IN UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF NORTH CAROLINA, GREENSBORO DIVISION

June Term, 1933

INDICTMENT

Filed June 5, 1933

The grand jurors of the United States of America, within and for the Middle District of North Carolina, being duly empaneled, sworn, and charged at the term and in the district and division aforesaid, and inquiring for that district, upon their oaths do present:

That heretofore throughout the period of time beginning on or about the 20th day of December, 1932, and continuing down to the date of the filing of this indictment, at the County of Rockingham, in the Greensboro Division of the Middle District of North Carolina and within the jurisdiction of this court, Claude Chambers and Byrum Gibson, whose more full and true names are to the grand jurors unknown, hereinafter called the defendants, unlawfully, wilfully, knowingly, and feloniously, did combine, conspire, confederate, and agree together among themselves and with each other, and with divers other persons whose names are to the grand jurors unknown, in an unlawful conspiracy, to commit certain offenses against the United States, to wit, to violate the provisions of the act of Congress approved October 28, 1919, commonly known as the National Prohibition Act, and acts amendatory thereof and supplemental thereto; that is to say, said defendants unlawfully, wilfully, knowingly, and feloniously did combine, conspire, confederate, and agree together and with each other and with divers other persons whose names are to the grand jurors unknown to unlawfully, wilfully, and knowingly manufacture, possess, sell, barter, deliver, furnish, transport, and receive orders for intoxicating liquors containing more
4 than one half of one percent of alcohol by volume and fit and intended for use for beverage purposes, and to possess materials designed for the manufacture of intoxicating liquors, otherwise than as authorized in the aforesaid act of Congress commonly known as the National Prohibition Act, and acts amendatory thereof and supplemental thereto.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present that in pursuance of said unlawful conspiracy and to effect the objects thereof, at the Middle District of North Carolina, and within the jurisdiction of this Court, said defendants, at the several times and places hereinafter mentioned in connection with their respective names, did do the following

OVERT ACTS

1. On or about the 20th day of December 1932, in Rockingham County, Claude Chambers and Byrum Gibson did possess intoxicat-

ing liquor containing more than one half of one percent of alcohol by volume and fit for beverage purposes, to wit, about 115 gallons of whiskey, the exact amount being to the grand jurors unknown.

2. On or about the 20th day of December 1932, in Rockingham County, Claude Chambers and Byrum Gibson did transport intoxicating liquor containing more than one half of one percent of alcohol by volume and fit for beverage purposes, to wit, about 115 gallons of whiskey, the exact amount being to the grand jurors unknown.

Against the peace and dignity of the United States of America and contrary to the form of the statute of same in such case made and provided.

SECOND COUNT

And the grand jurors aforesaid, upon their oaths aforesaid, do further present: That Claude Chambers and Byrum Gibson, whose more full and true names are to the grand jurors unknown, on or about the 20th day of December A.D. 1932 and heretofore before the finding of this indictment, at Rockingham County, in the Greensboro Division of the Middle District of North Carolina and within the jurisdiction of this Court, did knowingly, wllfully, and unlawfully have and possess a large quantity of intoxicating liquor, to wit, about 115 gallons of whiskey, the exact amount and description of which is to the grand jurors unknown, containing more than one half of one percent of alcohol by volume and fit for use for beverage purposes, in violation of title II of the National Prohibition Act, Approved October 28, 1919, and acts amendatory thereof and supplemental thereto, against the peace and dignity of the United States of America, and contrary to the form of the statute of same in such case made and provided.

THIRD COUNT

And the grand jurors aforesaid, upon their oaths aforesaid, do further present: That Claude Chambers and Byrum Gibson, whose full and more true names are to the grand jurors unknown, on or about the 20th day of December, A.D. 1932, and heretofore before the finding of this indictment, at Rockingham County, in the Greensboro Division of the Middle District of North Carolina, and within the jurisdiction of this Court, did knowingly, wilfully, unlawfully, and feloniously transport a certain quantity of intoxicating liquor, to wit, about 115 gallons of whiskey, the exact amount of which is to the grand jurors unknown, containing more than one half of one percent of alcohol by volume and fit and intended for use for beverage purposes, in violation of title II of the National Prohibition Act, approved October 28, 1919, and acts amendatory thereof and supplemental thereto, against the peace and dignity of the United States of America, and contrary to the form of the statute of same in such case made and provided.

FOURTH COUNT

And the grand jurors aforesaid, upon their oaths aforesaid, do further present: That Claude Chambers, whose more full and
6 true name is to the grand jurors unknown, on or about the 20th day of December 1932 and heretofore before the finding of this indictment at Rockingham County, in the Greensboro Division of the Middle District of North Carolina, and within the jurisdiction of this Court, did wilfully, knowingly, unlawfully, and feloniously transport intoxicating liquor containing more than one half of one percent of alcohol by volume and fit and intended for use for beverage purposes, in violation of title II of the National Prohibition Act, approved October 28, 1919, as amended and supplemented; to wit, about 115 gallons of whiskey, and that Claude Chambers, defendant herein, had heretofore within two years been convicted of a violation of the said act; that is to say, the said Claude Chambers on, to wit, February 5th, 1932, at Greensboro, in the District Court for the Middle District of North Carolina, was charged and plead guilty to a violation of the National Prohibition Act on a charge of possession and sale of whiskey and maintaining a nuisance, and was sentenced to four months in jail, against the peace and dignity of the United States of America and contrary to the form of the statute of same in such case made and provided.

And the grand jurors further present that Claude Chambers has heretofore been convicted for an offense of the same nature as herein charged and set out in court no. 2, which is now charged as a second offense; that is to say: On the 5th day of February 1932, at Greensboro Court, the said Claude Chambers plead guilty to a charge of possession and sale of intoxicating liquor, to wit, whiskey, and maintaining a common nuisance, and on the same date he was sentenced to four months in jail (#1481-G).

And the grand jurors further present that Byron (Byrum) Gibson has heretofore been convicted for an offense of the same nature as herein charged and set out in counts nos. 2 and 3, which is
7 now charged as a second offense; that is to say: On the 23rd day of January 1928, at Greensboro Court, the said Byron (Byrum) Gibson plead guilty to a charge of possession and transportation of intoxicating liquor and maintaining a nuisance, and on the same date he was given three months in jail for possession, three months for transporting, to begin at expiration of sentence for possession, and given eight months on nuisance charge, not concurrent, to begin at expiration of other sentences; sentence suspended and Gibson placed on probation for three years.

Against the peace and dignity of the United States of America and contrary to the form of the statute of same in such case made and provided.

(Signed) J. R. McCRARY,
United States Attorney.

8 IN UNITED STATES COURT

No. 1999

UNITED STATES

vs.

CLAUDE CHAMBERS, BYRUM GIBSON, ROCKINGHAM COUNTY

Docket entries

June 5, 1933. Indictment filed.

June 5, 1933. Case called for trial as to the defendant Claude Chambers. Plea of guilty. Prayer for judgment continued. Continued as to Byrum Gibson.

December 6, 1933. Case is called for trial as to the defendant Byrum Gibson and called for sentence as to the defendant Claude Chambers.

Through their attorneys, Walser and Casey, the defendant Claude Chambers offers a plea in abatement, as appears of record, and a demurrer to the jurisdiction of the court on account of the repeal of the eighteenth amendment is offered by defendant Byrum Gibson. Motions of defendants are sustained. Exception by J. R. McCrary, United States attorney. Exception allowed and notice is given in open court of intention to appeal to the Supreme Court of the United States. United States is allowed 15 days to prepare its bill of exceptions, and the defendants are allowed 5 days thereafter to file exceptions thereto, and the term of this court is extended 25 days for the purpose of settling the bill of exceptions, and for making any other orders necessary.

December 6, 1933. Plea in abatement by Claude Chambers filed.

December 6, 1933. Filing demurrer by defendant Byrum Gibson.

9 December 6, 1933. Filing order signed by Judge Hayes sustaining motions of defendants and extending term of court.

December 12, 1933. Filing petition for appeal and order allowing same signed by Judge Hayes.

December 12, 1933. Filing assignment of errors.

December 12, 1933. Filing citation as to Claude Chambers, service accepted, December 12, 1933.

December 12, 1933. Filing citation as to Byrum Gibson, service accepted, December 12, 1933.

December 12, 1933. Filing waiver of right of opposition to jurisdiction of the Supreme Court of the United States.

December 12, 1933. Filing order signed by Judge Hayes as to what shall constitute the record on appeal.

10 In United States District Court

[Title omitted.]

Plea in abatement

Filed December 6, 1933

The defendant, Claude Chambers, comes into court and enters a plea in abatement and objects to the court entering any judgment in the above matter and says:

That amendment no. 18 of the Constitution of the United States of America and all laws passed in conformity therewith have been repealed and there is no law of the United States of America constituting the allegations of the indictment herein, to which this defendant has pleaded guilty, a crime for which there is prescribed by the law any punishment, and that the court has no jurisdiction to proceed to judgment and that this defendant be discharged.

This the 6th day of December 1933.

(Signed) WALSER & CASEY,
Attorneys.

[*Duly sworn to by Claude Chambers; jurat omitted in printing.*]

11 In United States District Court

[Title omitted.]

Demurrer

Filed December 6, 1933

The defendant, Byron Gibson, comes into court and demurs to the indictment herein and says:

That the indictment does not set forth facts which constitute a crime under the Constitution and the Statutes of the United States of America in that the 18th amendment of the Constitution and the statutes passed by the Congress of the United States has been repealed and that the allegations of the said indictment do not constitute a crime against the laws of the United States of America, and that this court has no jurisdiction to proceed to trial, and that the indictment be dismissed.

This the 6th day of December 1933.

(Signed) WALSER & CASEY,
Attorneys.

[*Duly sworn to by Byron Gibson; jurat omitted in printing.*]

12 In United States District Court for the Middle District of North Carolina, Greensboro Division

Opinion

Filed December 6, 1933

HAYES, District Judge.

Amendment XVIII of the Constitution of the United States was a grant of power to the Federal Government prohibiting the manufacture, sale, etc., of intoxicating liquor for beverage purposes. The National Prohibition Act and the amendments thereto were enacted by Congress under the power granted to it through the amendment, Druggan v. Anderson, 269 U.S. 36. Congress, of course, can exercise no power except such as is delegated to it by the Constitution. In the absence of the amendment, the act would have no constitutional authority upon which to rest—such a law would be unconstitutional and void.

On December 5, 1933, the President of the United States and the Secretary of State proclaimed the adoption of amendment XXI. By it amendment XVIII is repealed without reservation or limitation.

Amendment XXI became effective as law immediately upon its ratification—an amendment to the Constitution becomes a part of it the instant it is ratified. Druggan v. Anderson, supra. The operation and effect of the United States Constitution and amendments thereto are not construed by rules governing statutes and State constitutions. Our system of government makes the Federal Constitution the supreme law of the land. Congress, the legislatures of the several States, and the people are bound by its provisions.

13 The extent of its powers is to be determined by its existing provisions. The powers are effective only while they remain in the Constitution. "The people made the Constitution, and the people can unmake it. It is the creature of their will, and lives only by their will." Cohens v. Virginia, 19 U.S. 120, 174.

The delegated powers of amendment XVIII are effective only during the retention of the amendment. Acts of Congress in keeping with those powers are valid only during the life of the amendment. If the acts of Congress must be within the powers authorized by the provision of the Constitution, an act cannot survive as law when the constitutional power authorizing it is eliminated. If the National Prohibition Act is still in force, amendment XXI is denied immediate effect: it is postponed until all violations of the Prohibition Act, occurring before December 5, 1933, are finally disposed of by the courts. Thus the two amendments would exist at the same time, notwithstanding that one repeals the other. The people granted the powers enumerated in amendment XVIII, but they revoked those powers by amendment XXI. The revocation occurred when the

repeal was ratified. It was not repealed in part, but it was repealed in its entirety. When the proposal was offered in Congress, various efforts were made to salvage some portions of the amendment, but the final form of section one was outright repeal, and section two is really a new grant of power.

It follows that legislative acts existing only by virtue of the amendment became inoperative when the power itself was withdrawn by the repeal of the amendment. Repeal of the National Prohibition Act by Congress is not necessary, for the law has no power to function without constitutional sanction. This construction gives full force and effect to the amendment during the period it was a part of the Constitution.

14 We have at least one instance of the withdrawal from the Federal Constitution of the power hitherto granted under it, and an opinion rendered by the United States Supreme Court in respect to the effect of such withdrawal. The decision of the Court in the case of Chisholm v. Georgia, 2 Dallas, page 419, produced a proposal in Congress for amending the Constitution, which later became XI, as follows: "The judicial power of the United States shall not be construed to extend to any suit in law and equity commenced, or prosecuted, against one of the United States by citizens of another State, or by citizens or subjects of any foreign state." Prior to the adoption of this amendment the power existed under the Constitution conferring jurisdiction upon the United States Court to try such actions. In Hollingsworth v. Virginia, 3 Dallas, page 378 (3 U.S. 299), the proposition was presented to the United States Supreme Court to determine whether the adoption of the amendment deprived the Court of jurisdiction to determine pending litigation. Argument in this case on behalf of the plaintiff was to the effect that the amendment should not be construed to interfere with pending litigation; that the amendment should not be given retrospective effect and thus withdraw jurisdiction in pending litigation; that it should follow rules of construction applicable to statutes or laws generally against such retrospective effect. The Attorney General, in behalf of the defendant, contended that the moment amendment XI became a part of the Constitution it thereupon deprived the United States Court of any power whatever to deal with litigation whether pending, or having arisen in the past, or to arise in the future. The case was disposed of in the following manner: "The Court on the day succeeding the argument delivered a unani-

15 mous opinion that the amendment being constitutionally adopted, there could not be exercised any jurisdiction, in any case, past or future, in which a State was sued by the citizens or subjects of any foreign states."

By analogy, although the principle appears the same, it seems perfectly clear that when amendment XVIII was repealed by the adoption of amendment XXI all power delegated by amendment XVIII ceased; that any legislation enacted pursuant to it termi-

nated the moment the amendment was repealed. It therefore follows that the national prohibition law has become obsolete and the power previously conferred upon the Courts to hear and determine cases involving the violation of that law has been effectually withdrawn from the courts and they are accordingly without any power whatever to proceed to trial or to impose sentences for the violation of a law no longer existing.

It is contended by the United States attorney that the Court still retains jurisdiction to hear and impose sentences upon convictions for a violation of the law which occurred prior to the repeal of the amendment. Chiefly he relies upon sec. 29, title I, of the U.S.C.A., Revised Statutes, sec. 13, act of 1871, by which it is provided that a repeal of a criminal statute, in the absence of language expressing a contrary intention, shall not deprive the courts of the power to convict and punish in violations which occurred before the repeal of such criminal statute. The Court is of the opinion that this statute has no application to the point presented here. The Prohibition Act is not terminated by any act of Congress; it becomes obsolete without repeal and therefore the point is not presented of a repeal by an act of Congress, bringing it within the construction of this statute.

In the second place, that section is one of construction, binding upon the courts in those cases only where Congress still retains the power to continue the criminal statute or to alter or amend it, and in no aspect of it, as this Court sees it, can such a statute operate to prolong the life of amendment XVIII, which the people themselves saw fit to terminate by repeal.

At common law, when a criminal statute was repealed, the courts had no power to inflict punishment against those who violated the law while it was in existence. A repeal operated to grant amnesty to the former violators. The rule was universally recognized "that no proceeding can be had or pursued under a repeal act of Parliament, though begun before the repeal, unless by special exception." Wm. Bl. 451. And by Hale P.C., 291, "that when an offense is made treason or felony by an act of Parliament, and then that act is repealed, the offense committed before such repeal and the proceedings thereupon are discharged by such repeal."

The repeal of a statute pending a prosecution for an offense which it creates arrests the prosecution and withdraws all authority to pronounce judgment, even after conviction. State v. Williams, 97 N.C. 352. The principle was recognized in all the States. 16 Corpus Juris 71.

An indictment cannot be sustained, under a statute which has been repealed, without any saving clause. United States v. Passmore, 4 Dallas 372. On repeal by an act of Congress all proceedings taken under it fall. "There can be no legal conviction, nor any valid judgment pronounced upon conviction, unless the law creating the offense be at the time in existence." United States v. Tynen, 11 Wallace 89; 78 U.S. 88.

When the people saw fit to repeal the amendment they could have extended its operation until every violator of the law,
17 while it was in existence, had been brought to judgment and punished. But, for reasons satisfactory to Congress, it proposed amendment XXI, and thirty-six States have ratified it, without any such reservation or limitation, and the withdrawal of the amendment leaves Congress where it was before the amendment became a part of the Constitution, except section two of amendment XXI. This section does not empower Congress to prohibit the manufacture and sale of liquor, but prohibits the transportation or importation of beverage liquors into a State, in violation of its laws, for use therein. Hence, the Federal prohibition law can derive no vitality except such as is sanctioned through amendment XVIII, and now that the amendment is repealed, the law itself is inoperative and the court is without power to deal with anyone for its violation.

To adopt any other construction would result in prolonging the life of the amendment, and the laws existing thereunder, until every violator could be brought to justice and tried, thereby giving effect to the amendment and the National Prohibition Act long after the amendment had been repealed, and after the Prohibition Act itself had become obsolete. Moreover, it is difficult to see any advantage that could accrue in the administration of justice by the trial, conviction and punishment of citizens for violating a law that no longer exists. When a law has been terminated by the solemn act of the people, in the manner of the repeal of amendment XVIII, the courts would in my opinion, be engaged in an unwarranted procedure if they undertake to deprive citizens of their liberty in the name of such a law.

This December 6, 1933.

JOHNSON J. HAYES,
U.S. District Judge.

18 In United States District Court for the Middle District of North Carolina

No. 1999

UNITED STATES v. BYRUM GIBSON AND CLAUDE CHAMBERS

Order sustaining motions to dismiss filed December 6, 1933.

The defendant Chambers entered a plea of guilty at the last term of this court, being charged with violation of the National Prohibition Act. Prayer for judgment was continued until this term. At this term of the court the defendant Chambers files a plea in abatement and moves that the case be dismissed against him because the court has no authority in law to proceed with the trial.

The defendant Gibson also moves to dismiss the action against him because the court has no authority in law to proceed with the trial; that the indictment does not now state an offense of which the court has jurisdiction.

The motion of each defendant is sustained and the United States excepts, exception allowed, and gives notice in open court of its intention to appeal to the United States Supreme Court. The United States is allowed 15 days to prepare its bill of exceptions, and the defendants are allowed 5 days thereafter to file its exceptions thereto, and the term of this court is extended 25 days for the purpose of settling the bill of exceptions, and for making any other orders necessary.

This the 6th day of December 1933.

(Signed) JOHNSON J. HAYES,
United States District Judge.

19 In United States District Court

[Title omitted.]

Petition for appeal and order allowing same

Filed December 12, 1933

Comes now the United States of America, plaintiff in the above-entitled cause, by J. R. McCrary, United States attorney in and for the Middle District of North Carolina, and conceiving itself aggrieved by the ordered entered in this cause on December 6, 1933, dismissing the indictment on motion of defendants Byrum Gibson and Claude Chambers, prays that an appeal may be allowed from said order to the Supreme Court of the United States, and in connection with this petition the United States presents herewith its assignment of errors and statement of jurisdiction.

Dated December 12th, 1933.

UNITED STATES OF AMERICA,
By its attorney: J. R. MCCRARY,
United States Attorney.

Appeal allowed this 12th day of December 1933.

JOHNSON J. HAYES,
United States District Judge.

20 In United States District Court

[Title omitted.]

Assignment of errors

Filed December 12, 1933

Comes now the United States of America, by J. R. McCrary, United States attorney in and for the Middle District of North Carolina, and in connection with its appeal makes the following assignment of errors:

1. The District Court erred in sustaining the motions of the defendants Byrum Gibson and Claude Chambers in the above-entitled cause.

2. The District Court erred in dismissing the indictment upon motion of the defendants Byrum Gibson and Claude Chambers.

3. The District Court erred in holding that it had no power to try the defendants Byrum Gibson and Claude Chambers for the violations of law charged in the indictment.

4. The District Court erred in holding that the repeal of the eighteenth amendment to the Constitution of the United States by the Twenty-first Amendment thereof had the effect of releasing and extinguishing all penalties and criminal liabilities incurred under the National Prohibition Act, as amended and supplemented.

Dated December 12th, 1933.

UNITED STATES OF AMERICA,
By its attorney: J. R. McCRARY,
United States Attorney.

21 [*Citations in usual form showing service on Walser & Casey, filed Dec. 12, 1933, omitted in printing.*]

23 In United States District Court

[Title omitted.]

Order as to transcript of record

Filed December 12, 1933

By consent of Walser and Casey, attorneys for the appellees, and J. R. McCrary, United States attorney, attorney for the appellant.

It is ordered that the following shall constitute the record on appeal:

Bill of indictment.
Transcript of entries in the clerk's office subsequent to the indictment.
Arraignment of defendants.
Plea and motion of the defendants.
Opinion of the court and order of the court on motions.
Exception by attorney for United States, exception allowed.
Petition for appeal.
Allowance of appeal.
Statement of jurisdiction by Solicitor General.
Assignment of errors.
Citation to defendants and service of same.
Waiver of right of opposition of jurisdiction by the defendant.
This the 12th day of December 1933.

(Signed) JOHNSON J. HAYES,
United States District Judge.

Consented to:
J. R. McCRARY,
Counsel for Appellant.
WALSER & CASEY,
Counsel for Appellee.

24 In United States District Court

[Title omitted.]

Order settling case

The foregoing case on appeal has been consented to by the defendants through their attorneys, Walser and Casey, and by J. R. McCrary, United States attorney, and has been examined and approved and settled by the Court as constituting the case on appeal.

This the 14th day of December 1933.

JOHNSON J. HAYES,
Judge of the United States District Court
for the Middle District of North Carolina.

25 In United States District Court

[Title omitted.]

Order to transmit record

It is ordered by the Court that a transcript of the record and the proceedings in the cause aforesaid, together with all things thereto relating be transmitted to the Supreme Court of the United States.

This the 14th day of December, 1933.

JOHNSON J. HAG,
Judge of the United States District Court
for the Middle District of North Carolina.

26 [*Clerk's Certificate to foregoing transcript omitted in printing.*]

27 In Supreme Court of the United States

Statement of points relied upon and designation of entire record for printing

Filed December 15, 1933

Pursuant to rule 13 of this Court appellant specifies the following points upon which it intends to rely in the above-entitled cause:

1. The District Court erred in sustaining the motions of the defendants Byrum Gibson and Claude Chambers in the above-entitled cause.

2. The District Court erred in dismissing the indictment upon motion of the defendants Byrum Gibson and Claude Chambers.

3. The District Court erred in holding that it had no power to try the defendants Byrum Gibson and Claude Chambers for the violations of law charged in the indictment.

28 4. The District Court erred in holding that the repeal of the eighteenth amendment to the Constitution of the United States by the twenty-first amendment thereof had the effect of releasing and extinguishing all penalties and criminal liabilities in-

curred under the National Prohibition Act, as amended and supplemented.

The appellant deems the entire record, as filed, to be necessary for the consideration of the above contentions.

J. CRAWFORD BIGGS,
Solicitor General.

DECEMBER 15, 1933.

[File endorsement omitted.]

(Endorsement on cover:) File No. 38, 262, M. North Carolina, D.C.U.S. Term No. 659. The United States of America, Appellant, vs. Claude Chambers and Byrum Gibson. Filed December 15, 1933. File No. 659 O.T. 1933.

U. S. GOVERNMENT PRINTING OFFICE: 1933